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EX PARTE OR LATE FILED

June 4, 1996

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Office of the Secretary
Federal Communications Commission
ATTN: William F. Keaton
Washington D.C. 20554

Re: Proposed Rules on Non-Governmental Restrictions
on Satellite Antenna Installation
IB Docket 95-59

Dear Mr. Keaton:

DOCKET FILE COPY ORIGINAL

Enclosed herein for filing in the above-referenced matter,
please find one original and five copies of the Comment of
Brandondale, Ltd. on Proposed Rule.

Please send me a copy of any proposed or final reports and
orders in this matter.

Thank you.

Sincerely,



Michael D. Pederson

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C.

EX PARTE OR LATE FILED

In the Matter of)
) IB Docket No. 95-59
Preemption of Non-)
Governmental Restrictions On)
Small-Antenna Video Reception)

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COMMENT OF BRANDONDALE, LTD
ON PROPOSED RULE

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Introduction

Brandondale, Ltd. ("Brandondale") owns and operates the Brandondale Mobile Home Park ("Park") in Chaska, Minnesota. The Park is a manufactured home park which has approximately 480 lots occupied with manufactured homes, with an average of three people per lot, on approximately 100 acres of land. The manufactured homes in the Park are transportable structures, not part of real estate, generally at least 750 square feet in area, they are built on a permanent chassis and are designed to be used as a dwelling with or without a permanent foundation. See Minnesota Statutes Section 327B.01, Subd. 13. Brandondale provides the park residents with a lot upon which to place their manufactured homes, utility hook-ups, roads, driveways, garages, and various other services. Brandondale prides itself in running a first class facility and takes great steps to protect the Park's reputation as a safe and clean mobile home park.

Recently, Brandondale's employees have noticed that some residents have begun installing small (18") dishes to their houses and that other residents have begun installing larger (32") dishes in-ground.

State Regulation of the Park

Brandondale's operation of the Park is regulated by Minnesota law. Brandondale is required to obtain a license for the Park, and its operations are regulated by Minnesota Statutes Chapter 327C. Chapter 327C is essentially a consumer protection law which provides, among other things, that a park owner cannot evict a resident if the resident meets financial obligations, obeys state and local laws and obeys reasonable park rules. See Minnesota Statutes Section 327C.02. Park owners are, however, allowed to have reasonable park rules to protect the convenience, safety, or welfare of the residents and to promote the good appearance of the facility. See Minnesota Statutes Section 327C.01, subd. 8.

Brandondale's Regulation of Satellite Dishes

Brandondale signs written lease agreements with residents to lease lots within The Park. The lease agreement requires tenants to maintain their lots in specified ways and it restricts tenants from using the leased area in other specified ways. In addition, the lease agreement provides that Brandondale may promulgate Park-wide rules and regulations, which rules are incorporated into the lease agreement, as is permitted by Minnesota law.

Brandondale has enacted Park Rules and Regulations which contain numerous restrictions on the resident's rights to use the leased premises. For instance, all homes in the Park must bear the Minnesota State seal of approval, they must be completely skirted and painted in an earth-tone color in accordance with Brandondale's "excellence of design" concept, and any additions to homes must be approved by Brandondale management. The Rules and Regulations further restrict resident's ability to plant gardens, install fences, and otherwise use the real estate upon which the home is placed.

Of particular relevance to the matter before the Commission is Brandondale's Rule 10 (b) which provides that "Discs and other equipment for receiving television or other signals are not permitted on the exterior of the home or homesite."

There are numerous reasons why Brandondale initially enacted this rule. First, Brandondale was concerned that satellite dishes could create a safety hazard for other residents during storms or windy conditions. Second, Brandondale was concerned that satellite dishes would become an eye-sore, especially in the future when the dishes become older and weather worn. Additionally, Brandondale was concerned that satellite dishes installed directly on the real estate would damage Brandondale's real estate when residents move and leave large, potentially dangerous holes where the satellite dish was previously installed. Finally, Brandondale believed that there was a significant risk of

catastrophic results if electric lines or other underground utilities were damaged by residents installing or removing satellite dishes in the ground.

Any Rules Promulgated by the Commission Should Completely Exempt Manufactured Park Rules From Type of Non-Governmental Restrictions Prohibited. In the Alternative, Any Such Commission Rules Should Recognize and Exempt Various Safety- Related Restrictions Within Manufactured Home Parks

Given the unique nature of manufactured homes and manufactured home parks, Brandondale believes that the Commission's rules should specifically exempt mobile home park rules and regulations from the list of nongovernmental restrictions that will be unenforceable under the new rule.

Although the technology for satellite dishes has changed, each of the above-listed concerns are still valid concerns today. Because of the distinct nature of manufactured homes and manufactured home parks, satellite dishes on top of mobile homes will be another safety hazard for other residents during storms or windy conditions and they will become an eye-sore, especially when they become older. Furthermore, given the somewhat transient nature of residents within the Park, satellite dishes installed directly on the real estate will undoubtedly damage Brandondale's real estate when residents move and leave large, potentially dangerous holes where the satellite dish was previously installed. Finally, there is a genuine risk of catastrophic results if electric lines or other underground utilities are damaged by residents installing

satellite dishes in the ground. These are all legitimate concerns, especially given the unique nature of manufactured homes and manufactured home parks.

If the Commission chooses not to provide a blanket exemption for mobile home park rules, Brandondale believes that the Commission should at the very least specify that mobile home parks and other similar entities may prohibit residents from placing satellite dishes on property not owned by the resident. In a manufactured home park, residents may own their manufactured homes but they must rent the land upon which the homes are placed. Given the legitimate safety concerns discussed above, we believe that it is reasonable and prudent for a manufactured home park to prohibit residents from installing satellite dishes on property the residents do not even own.

At the very least, we would hope that the Commission would clarify that park rules relating to safety and aesthetics are permissible as long as they do not materially limit the residents' ability to receive satellite television transmissions. Without limiting the foregoing, Brandondale believes that the following types of park rules should specifically be permissible:

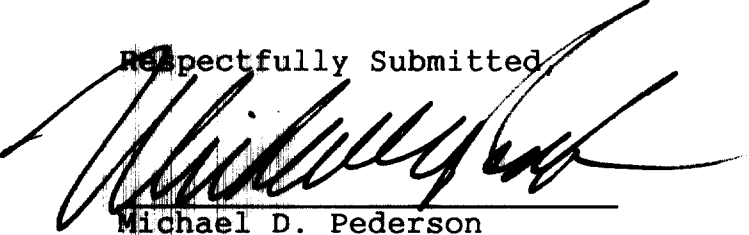
- (1) Rules that require residents to have dishes installed, only on their houses, in a workmanlike manner, and that they be maintained in a safe and attractive manner;
- (2) Rules that allow management to inspect dishes, when they are installed and periodically thereafter, and to require that residents fix dishes that are improperly installed or that are unattractive.

- (3) Rules that provide that before a dish can be installed in ground, tenants must contact management and underground utility locaters to make certain that the proposed location for the dish is acceptable, at resident's expense.
- (4) Rules that provide that any dishes installed in-ground must not be installed or removed in any manner that will result in damage to utilities, landscape or other resident's property.

Conclusion

Because of the unique nature of manufactured home parks, the Commission's rules should specifically exempt mobile home park rules and regulations from the list of nongovernmental restrictions that will be unenforceable under the new rule. If the Commission chooses not to provide a blanket exemption for mobile home park rules, the Commission should specify that mobile home parks and other similar entities may prohibit residents from placing satellite dishes on property not owned by the resident. At the very least, we would hope that the Commission would clarify that certain park rules are permissible if they are safety/aesthetic rules that do not materially limit residents' abilities to receive satellite television transmissions.

Respectfully Submitted



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